THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.479 OF 1999

DATED: 24.10.2007

Between:

Ch. Nageswara Rao

.. Petitioner

And

The Commissioner of Collegiate Education, Nampally, Hyderabad and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.479 OF 1999

ORDER:

This writ petition is filed seeking a Mandamus declaring the proceedings, dated 03.03.1998, in L.Dis.No.501/PCII-1/98, passed by the 1st respondent as illegal, inoperative and void, and consequently to direct the 1st respondent to regularize the services of the petitioner in the post of Lecturer in English Department in the 3rd respondent college in terms of G.O.Ms.No.328, Education (CE.III) Department, dated 15.10.1997.

According to the petitioner, he was appointed as a part-time lecturer in English in the 3rd respondent college with effect from 09.12.1986 and has been discharging his duties as such. Initially, he was being appointed by the 3rd respondent at the beginning of each academic year. Thereafter, though no appointment orders were issued from 1989 onwards, he, along with other part-time lecturers, was orally instructed to report for duty. While so, as there were no vacancies of aided posts in the Department of English in the 3rd respondent college, the services of the petitioner could not be regularized as per G.O.Ms.No.302 dated 23.08.1991. Therefore, he had to file W.P.No.4525 of 1993 before this Court seeking declaration that he is entitled for regularization of his services as Lecturer in the 3rd

respondent college. The said writ petition was disposed of on 22.07.1994 directing the petitioner to make a representation to the Government of A.P. seeking regularization of his services and further directing the Government to dispose of such representation within a period of four months thereafter, and status quo obtaining as on that date was directed to be continued. The petitioner complains that in pursuance of the said order, he made a representation to the Government on 01.08.1994, but the same is still pending and no orders have been communicated to him till date, however, in view of the status quo order granted by this Court, he is continuing in the service of the 3rd respondent college. The petitioner contends that, in the meanwhile, the Government of A.P. issued G.O.Ms.No.328 Education (CE.III) Department, dated 15.10.1997, for regularizing the services of part-time lecturers/junior lecturers working in aided colleges and under the said G.O., a part-time Lecturer, who has put in three academic years of service as on 30.07.1991 or five academic years of service as on 25.11.1993 is eligible for regularization, subject to the conditions stipulated in the said G.O. The said G.O. also contemplates that the service put in by any part-time lecturers/junior lecturers in one or more than one aided colleges with or without breaks can also be taken into account. The principals of the concerned colleges were supposed to submit proposals to the 1st respondent giving all the particulars for regularization of the services of such part-time lecturers/junior lecturers. Thereupon, the 3rd respondent, while forwarding such proposals to the 1st respondent for regularizing the services of various part-time lecturers working in the said college, however, did not include the name of the petitioner on the ground that he had not been given any work since 1995 in the 3rd respondent

college. Aggrieved by he same, the petitioner had to file Writ Petition No.2631 of 1998 before this Court contending inter alia that in view of the orders passed by this Court in W.P.No.4525 of 1993, he shall be deemed to be continuing in service in the 3rd respondent college and, in fact, he has been taking classes now and then as per the directions of the management and, hence, his services should be regularized in terms of G.O.Ms.No.328 dated 15.10.1997. This Court, by order dated 04.02.1998 in W.P.M.P.No.3071 of 1998 in the said writ petition, directed the 3rd respondent to send proposals to the 1st respondent as per G.O.Ms.No.328. Accordingly, the 3rd respondent forwarded the proposals to the 1st respondent and consequently the 1st respondent, by the impugned proceedings dated 03.03.1998, held that in view of the discontinuance of the petitioner from service with effect from January, 1995, his services cannot be regularized as per G.O.Ms.No.328. The petitioner contends that he has been continuing in the 3rd respondent college as of now and, hence, the impugned proceedings are arbitrary and illegal.

A detailed counter-affidavit has been filed on behalf of the 1st respondent denying the allegations made by the petitioner. It is stated that as per G.O.Ms.No.328 dated 15.10.1997, one should be in service as on the date of issuance of the said G.O., but in the instant case, the petitioner was discontinued from service as part-time lecturer in the 3rd respondent college with effect from January 1995 and, therefore, he has not fulfilled the vital condition of continuing in service as on 15.10.1997, the date on which G.O.Ms.No.328 was issued. Further, in pursuance of the interim order passed by this Court in W.P.No.2631 of 1998, the case of the petitioner has been examined on receipt of proposals from the 3rd respondent, and, since he is ineligible for

regularization of his services as he has not fulfilled the condition of in service as on the date of issuance of G.O.Ms.No.328 as stated above, his case was rejected by the impugned proceedings dated 03.03.1998. According to the respondents, neither the petitioner was in service as on the date of issuance of G.O.Ms.No.328, dated 15.10.1997, nor he is entitled for regularization otherwise.

During the pendency of the writ petition, one B. Neelavendra Rao, who is stated to be working as lecturer in Statistics in the 3rd respondent college, got himself impleaded as 4th respondent in the writ petition.

Now, the learned counsel appearing for the 4th respondent states that the case of the 4th respondent was considered for regularization of his services as lecturer in Statistics in the 3rd respondent college and no other vacancies are available for accommodating the petitioner.

Under those circumstances, without expressing any opinion on merits, the 3rd respondent is directed to consider continuing the services of the petitioner in any unaided vacancy, if he is otherwise eligible as per law. However, this will not preclude the 3rd respondent from recommending the case of the petitioner for regularization of his services in any existing or future aided vacancy in the college.

With the above directions, the writ petition is disposed of. No order as to costs.

C.V. RAMULU, J

24th October, 2007.

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